

BOULDER CITY COUNCIL PROCEEDINGS

Tuesday, January 5, 2010

1. **CALL TO ORDER AND ROLL CALL**

Mayor Osborne called the regular January 5, 2010 council meeting to order at 6:00p.m.in the council chambers.

Those present were: Mayor Osborne, Deputy Mayor Wilson and Council Members Ageton, Becker, Cowles, Gray, Karakehian and Morzel.

Council Member Appelbaum arrived at 7:10 p.m.

2. **PUBLIC PARTICIPATION and COUNCIL/STAFF RESPONSE**

1. Mary Louise Chavers, medically certified as pesticide reactive, spoke to the need for maintenance persons in apartment communities to notify residents when pesticides are applied. She would like the City to close the loopholes in its pesticide ordinance.
2. Bill Holicky, Planning Board member speaking on his own behalf, commented on affordable housing noting that Boulder has done a great job of serving the moderate and low income brackets but only reached 30% of its goal in accommodating the very low income bracket (1100 units short). He urged Council to consider utilizing the cash-in-lieu option to subsidize other organizations in providing very low income units. It is time to re-evaluate who is being served and how we're serving them.
3. Chuck Howe, Economist, spoke in support of upgrading the Boulder Canyon Hydroelectric Plant noting it was a great financial and environmental investment with or without the Federal grant. He encouraged utilizing the Lakewood Pipeline Reserve for financing the project and suggested the City would get a better rate if Xcel retained the renewable energy credits.
4. Raymond Bridge, spoke to item 6C regarding the expansion of Gross Reservoir, noting that PLAN Boulder would likely oppose several areas of the agreement. It generally supported the staff recommendation for proposed IGA with Denver and Lafayette.
5. Bart Miller with Western Resource Advocates also spoke to item 6C, specifically the Moffat tunnel, and asked Council not to approve the project as it is currently proposed. The IGA should not divert more water from the Western slope. It shouldn't create opportunities to divert South Boulder Creek native flows and instead be limited to environmental purposes. He complimented Bob Crifasi for his efforts in public outreach.
6. Drew Peternell, with Trout Unlimited and the Colorado Water Project, also a water rights attorney, supported the previous speakers' comments about the Moffat tunnel area. He raised a concern about low flows at the reservoir and encouraged the City to avoid an environmental pool that would allow an increased draw from the Western slope. He urged the City to continue discussions with Denver and Lafayette although they did not support the project as proposed.

CITY MANAGER RESPONSE: - 6:22 P.M. -None.

CITY COUNCIL RESPONSE: - 6:22 P.M.

Council Member Morzel expressed an interest in further modifying the pesticide ordinance to ensure notification. She then requested an update about where the loopholes were in the integrated pest management program and what might be done to work more closely with property managers to provide due notice to tenants.

Council Member Cowles commented that it would be important to hear from the Environmental Affairs division about the ordinance and what other cities have done in terms of supporting pesticide sensitive residents.

Mayor Osborne agreed and suggested a Weekly Information Packet item would be a good place to start.

A. BVSD BOND OVERSIGHT COMMITTEE PRESENTATION. SUSAN GRAF – 6:23 P.M.

Susan Graf, Chamber of Commerce President, and Dee Perry, Boulder Valley School District Bond Oversight Committee member, provided the presentation on this item. They briefly reviewed the bond program and how the various projects were selected and implemented. She indicated that more information could be found at www.bvsd.org then selecting the Boulder Valley School District Bond Program icon.

Council Member Morzel suggested the committee consider writing up the process for how it achieved its goals.

3. CONSENT AGENDA: - 6:41 P.M.

- A. APPROVAL OF CITY COUNCIL MEETING MINUTES FROM DECEMBER 15, 2009.**
- B. CONSIDERATION OF A MOTION TO ACCEPT THE SUMMARY OF THE OCTOBER 13, 2009 STUDY SESSION REGARDING DEBRIEF OF THE COUNCIL EMPLOYEE EVALUATION PROCESS.**
- C. CONSIDERATION OF A MOTION TO ACCEPT THE SUMMARY OF THE OCTOBER 20, 2009 STUDY SESSION REGARDING COUNCIL DISCUSSION ON BOARDS AND COMMISSIONS.**
- D. CONSIDERATION OF A MOTION TO ACCEPT A UNITED STATES DEPARTMENT OF ENERGY GRANT TO MODERNIZE THE BOULDER CANYON HYDROELECTRIC FACILITY AND FOR FUNDING BOULDER'S SHARE OF THE MATCHING FUNDS.**
- E. THIRD READING AND CONSIDERATION OF ORDINANCE NO. 7701 AMENDING THE LAND USE CODE (TITLE 9, B.R.C.) TO REPEAL CHAPTER 9-13 B.R.C INCLUSIONARY ZONING AND ADOPT THE PROPOSED CHAPTER 9-13 B.R.C. INCLUSIONARY HOUSING IN ORDER TO INCORPORATE CHANGES RECOMMENDED BY CITY COUNCIL IN CONJUNCTION WITH PHASE II OF THE AFFORDABLE HOUSING REVIEW.**

The suggested motion language on page 2 was corrected to reflect 60 rather than 90 days.

- F. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY AN ORDINANCE DESIGNATING THE BUILDING AND SITE AT 1017 MAXWELL AVENUE, TO BE KNOWN ALSO AS THE INGLIS HOUSE, AS AN INDIVIDUAL LANDMARK UNDER THE CITY'S HISTORIC PRESERVATION CODE. OWNER/APPLICANT: CINDY AND LARRY MORPHEW.**

Council Member Gray moved, seconded by Cowles to approve Consent items 3D, 3E, and 3F with item 3E amended to reflect 60 rather than 90 days and items 3A, 3B and 3C continued to the January 19, 2010 meeting. The motion carried Ageton, Becker, and Karakehian opposed to item 3E; Appelbaum absent.

4. **CALL- UP CHECK IN:** - None

ORDER OF BUSINESS

5. **PUBLIC HEARINGS:**

- A. **SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7708 DESIGNATING THE BUILDING AND SITE AT 1937 SPRUCE STREET, TO BE KNOWN ALSO AS THE SHERWOOD HOUSE, AS AN INDIVIDUAL LANDMARK UNDER THE CITY'S HISTORIC PRESERVATION CODE. OWNER/APPLICANT: POWER VENTURE, LLC/ERIC SMITH ASSOCIATES, P.C. *THE HEARING ON THIS ITEM WILL BE HELD UNDER THE QUASI-JUDICIAL HEARING PROCEDURES OF THE B.R.C.* – 6:50 P.M.**

City Clerk Alisa Lewis swore in all participants in this hearing.

There were no *ex-parte* communications disclosed.

Chris Meschuk, Historic Preservation Planner, provided a brief presentation on the item.

Tom Jarmin, ESA Architects, representing the property owner, spoke in support of the landmarking.

There being no further speakers, the public hearing was closed.

Council Member Gray moved, seconded by Morzel to adopt Ordinance No. 7708 designating the building and site at 1937 Spruce Street, to be known as the Sherwood House, as an individual landmark under the city's Historic Preservation Code. The motion carried 8:0; Appelbaum absent.

6. **MATTERS FROM THE CITY MANAGER:**

- A. **CITY MANAGER'S UPDATE ON OBJECTIVES AND TIMELINE FOR CONSTRUCTION USE TAX PROCESS IMPROVEMENTS. – 7:05 P.M.**

City Manager Jane Brautigam provided the presentation on this item. She noted the ordinance providing an appeal process for those audited would be forthcoming in February. She then briefly described the anticipated implementation timeline which included:

- January: City Manager to appoint a stakeholder group for develop recommended changes to procedural, structural and regulatory areas
- February: Input on staff recommendations by stakeholder group appointed by City manager
- March: Update to council of staff recommendations for adjustments to process, structure and applicable regulatory/ordinance provisions
- April: Implementation of process changes; anticipated to potentially involve a phased roll-out.

General questions about what would happen in the interim were raised by Council including what applicants would be receiving for information about the close-out of their projects. It was clarified that staff would utilize the new table Council approved when adopting the budget in October, for collecting appropriate taxes during the interim period.

**B. UPDATE AND DISCUSSION OF THE BOULDER VALLEY COMPREHENSIVE PLAN
2010 MAJOR UPDATE AND A REQUEST TO DESIGNATE A CITY COUNCIL MEMBER
TO THE PROCESS SUBCOMMITTEE FOR PHASE 1: KICK-OFF. – 7:15 P.M.**

Susan Richstone, Long Range Planning Manager provided the presentation on this item.

Council Member Cowles commented that there did not seem to be many Environmental indicators included beyond the Climate Action Plan.

Council Member Appelbaum agreed with comments from Council Member Cowles, noting that it would be important to determine which indicators are going to be used and how they are going to be used before putting much effort into looking at data so that it was meaningful.

Council Member Morzel agreed but wanted to see a report come back that would show what kinds of environmental indicators would be measured (i.e. water, air and wildlife impacts). She raised concern about the level of services the City could provide to its current population and wanted to make sure any new development or growth really addressed this issue.

Council Member Ageton expressed that the indicators seem to be County-wide rather than City-wide and this should certainly be looked at closely to ensure that needs were being met.

Council Member Cowles commented that housing should be added as a fifth category to ensure the affordable housing program was meeting the community's needs.

Council Member Wilson moved, seconded by Ageton to appoint Council Member Gray to serve on the BVCP Process Subcommittee.

C. DISCUSSION AND COUNCIL FEEDBACK ON BOULDER'S EFFORTS TO DEVELOP AN INSTREAM FLOW PROGRAM ON SOUTH BOULDER CREEK AND ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE MOFFAT COLLECTION SYSTEM, INCLUDING GROSS RESERVOIR. – 7:36 P.M.

Ned Williams, Director of Public Works for Utilities, provided the presentation on this item.

After Council discussion, there was general council consensus to ensure 1) the restriction of development of Leyden Gulch Reservoir and/or that conservation easements were obtained; 2) to encourage more or enhanced instream hydro and 3) the need to address transportation concerns.

Council Member Cowles moved, seconded by Morzel to 1) support the key components of the IGA with the Denver Water Board and Lafayette that would provide for the construction of an environmental pool to support in stream flows in South Boulder Creek in the event Denver obtains approval for the expansion of Gross Reservoir and further; 2) to negotiate a future for Leyden gulch that excludes water storage or urban development if the expansion of Gross Reservoir is approved; and 3) addresses the transportation issues identified in the council discussion including comments #2 and #3 on page 67 of the memo – attachment C:

COMMENT 2. The Draft EIS identifies Highway 72 as the access road for construction. Boulder agrees with that designation. However, Boulder believes that it is inappropriate to route construction traffic along State highway 128 or Highway 93. Construction traffic on Highway 128 and Highway 93 will increase congestion on those roads and create noise impacts to surrounding open space lands. Boulder residents who commute along highway 93 should not have to deal with the inconveniences of construction traffic along that road. The City of Arvada is a major beneficiary of the Moffat Collection System Project. Because the City of Arvada is a major beneficiary, designation of haul traffic through Arvada via Indiana Ave to highway 72 is appropriate and necessary.

COMMENT 3. The Draft EIS does not identify Flagstaff Road for any construction, haul or forestry related traffic. Boulder appreciates that no designation is identified along Flagstaff Road. However, Flagstaff Road is a potential access route to Gross Reservoir. Because of the steep grades, tight turns and large amount of residential and recreational traffic, the use of Flagstaff Mountain Road from Walker Ranch to the city limits of Boulder should be specifically prohibited as an access route for the project.

7. **MATTERS FROM THE CITY ATTORNEY:** - None.

8. **MATTERS FROM MAYOR AND MEMBERS OF COUNCIL:**

A. CITY ATTORNEY SEARCH UPDATE – 9:11 P.M.

Deputy Mayor Wilson moved, seconded by Karakehian to authorize the City Manager to enter into an agreement with the Mercer Group to conduct background checks and negotiations for the City Attorney search.

Council Member Ageton moved, seconded by Wilson to appoint Council Members Becker and Morzel as the City Attorney Search Committee.

Other Matters:

Council Member Cowles raised concern about whether Directors had reviewed the Boards and Commissions Interview questionnaires, specifically the Planning Board. Council requested a Weekly Information Packet item with copies of the Board questionnaires and generally noted that it is assumed nothing has been modified on the questionnaires from year to year unless specifically pointed out by staff.

9. **PUBLIC COMMENT ON MATTERS:** - None

10. **FINAL DECISIONS ON MATTERS:** Action on motions made under Matters.
9:25

Vote was taken on the motion to appoint Council Member Gray to serve on the BVCP Process Subcommittee. The motion carried 9:0.

Vote was taken on the motion to 1) support the key components of the IGA with the Denver Water Board and Lafayette that would provide for the construction of an environmental pool to support in stream flows in South Boulder Creek in the event Denver obtains approval for the expansion of Gross Reservoir and further; 2) to negotiate a future for Leyden gulch that excludes water storage or urban development if the expansion of Gross Reservoir is approved; and 3) addresses the transportation issues identified in the council discussion including comments #2 and #3 on page 67 of the memo – attachment C:

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The motion carried unanimously 9:0.

Deputy Mayor Wilson moved, seconded by Karakehian to authorize the City Manager to enter into an agreement with the Mercer Group to conduct background checks and negotiations for the City Attorney search. The motion carried unanimously 9:0.

Vote was taken on the motion to appoint Council Members Becker and Morzel as the City Attorney Search Committee. The motion carried unanimously 9:0.

11. **ADJOURNMENT**

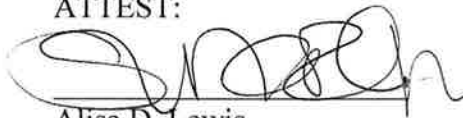
There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED AT 9:29 P.M.

APPROVED BY:



Susan Osborne,
Mayor

ATTEST:



Alisa D. Lewis,
City Clerk